

BRAVERMAN KASKEY

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May 9, 2011

Via E-mail and First Class Mail

Patrick K. O'Neill, Esq.
Divisional Deputy City Solicitor, Environmental Law
City of Philadelphia Law Dept.
One Parkway Bldg. 16th Floor
1515 Arch Street
Philadelphia, PA 19102

**RE: Arsenal Business Center -- Notices of Violation for
Building 51/52 (V-02869, V-02865);
Building 143 (V-02868, V-02864)**

Dear Mr. O'Neill:

This Firm is counsel to Arsenal Associates, L.P. ("Arsenal"), Hankin Management Company ("HMC"), Arsenal Condominium Association and New Huntingdon Construction Company (collectively referred to herein as the "Arsenal Parties"). I am writing in response to the referenced four (4) Notices of Violation issued pursuant to Title 6 of the Philadelphia Code and received by our clients within the past few weeks, copies of which are attached hereto as Exhibit "A.". These Notices of Violation relate to Buildings 51/52 and 143.

Building 51/52

Philadelphia Air Management Services ("AMS") has issued the following denial of access Notices of Violation on Building 51/52:

- V-02865, against Hankin Management Company
- V-02869, against New Huntingdon Construction Company

Both violation notices state the following: "Denial of Access: on 3/29/11 AMS inspectors were denied complete access to building 51/52 in violation of Philadelphia Code §6-501(1). The Department is authorized to enter and examine any establishment, institution or private residence at all reasonable times and the owner or person in charge shall give the Department free and unhindered access for the purposes of such inspection."

For the reasons set forth below, the Arsenal Parties deny these alleged violations. On March 29, 2011, AMS inspector, Andrew Jones, arrived at the Arsenal Business Center, Building 1 at approximately 9:30 a.m. Shortly before his arrival, AMS informed Arsenal Associates that an AMS inspector was coming to the Arsenal to inspect Building 44 in connection with Arsenal's application for a demolition permit for Building 44. Arsenal Associates' representative, Mr. John Swanson, met Mr. Jones and asked him what was on the agenda for the day. Mr. Jones stated that he was at the Arsenal to inspect Building 44 as well as Buildings 51 and 52. Mr. Swanson responded that he was not aware that Buildings 51-52 were on the agenda for that day. Mr. Jones then responded quickly that perhaps Building 44 was not on the agenda as well and he should leave. Mr. Swanson stated that that was not what he said. Mr. Jones then left briefly, made a phone call, and returned five minutes later stating that the inspection was to take place in Building 44 and nowhere else. At no time did Mr. Swanson, nor anyone else, deny Mr. Jones access to Building 51-52. In fact, it was Mr. Jones that declined to inspect Building 51-52.

As further stated in my letter of April 19, 2011, at no time have the Arsenal Parties denied AMS access to inspect Building 51-52 and strict proof thereof is demanded. See Letter dated April 19, 2011 from M. Walker, Esquire to D. Yuen, Esquire, a copy of which is attached hereto as Exhibit "B" and which is incorporated by reference herein.

Building 143

AMS has issued the following denial of access Notices of Violation on Building 143:

- V-02864, against Hankin Management Company
- V-02868, against New Huntingdon Construction Company

Both violation notices state the following: "Denial of Access: on 3/29/11 AMS inspectors were denied complete access to building 143 in violation of Philadelphia Code §6-501(1). The Department is authorized to enter and examine any establishment, institution or private residence at all reasonable times and the owner or person in charge shall give the Department free and unhindered access for the purposes of such inspection."

Once again, the Arsenal Parties deny the foregoing alleged violations and strict proof thereof is demanded. It is specifically denied that AMS requested access to or attempted to inspect Building 143 on March 29, 2011. As stated hereinabove, AMS requested to inspect and did inspect Building 44 only on March 29, 2011. More importantly, AMS did not request access nor attempt to inspect Building 143 on March 29, 2011. AMS had full and unhindered access and did indeed inspect Building 143 on January 6, 2011. Indeed, on January 6, 2011, Ms. Brooke Weese and Mr. John Swanson accompanied AMS inspectors, Andrew Jones, Ed Skirkie, Jeff Forester, Rich Annunziato and Hank Biedrzycki during their inspection of Building 143, among other buildings. During that inspection, Mr. Biedrzycki asked Ms. Weese if Building 143

BK

Patrick K. O'Neill, Esq.

May 9, 2011

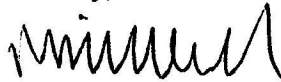
Page 3

was a pet crematorium; Mr. Jones climbed up the ladder in Building 143 and came back down; and Mr. Annunziato kicked some of the pipes along the walls in Building 143. The group of AMS inspectors then exited Building 143.

Demand is hereby made that AMS produce all documents and information upon which the above-referenced notices of violation are based.

The Arsenal Parties continue to deny all material allegations of wrongdoing and any and all liability for the alleged violations. Neither this response nor anything contained herein is intended to be nor shall be construed to be an admission of liability on the part of the Arsenal Parties. All information is provided herein to the best of our knowledge, understanding and belief.

Sincerely,



Michelle S. Walker

Enclosures

cc: Dennis Yuen, Assistant City Solicitor
Donzetta Thomas, Senior Assistant Regional Counsel, EPA
Christine Convery, EPA
David L. Braverman, Esquire

EXHIBIT A

V-028104

NOTICE OF VIOLATION - MAJOR

PHILADELPHIA DEPARTMENT OF PUBLIC HEALTH

AIR MANAGEMENT SERVICES

ASBESTOS CONTROL UNIT

SPELMAN BUILDING, 321 UNIVERSITY AVENUE, 2ND FLOOR
PHILADELPHIA, PA 19104-4543

YOU ARE IN VIOLATION OF THE SECTIONS CHECKED BELOW. TAKE PROMPT ACTION TO CORRECT THIS VIOLATION, COMPLETE THE ITEMS LISTED ON THE REVERSE SIDE AND RETURN THE NOTICE WITHIN 5 DAYS TO THE ADJOINING ADDRESS. FAILURE TO CORRECT VIOLATION MAY RESULT IN THE DEPARTMENT OF LICENSES AND INSPECTIONS CONTRACTING TO ALLEVIATE THE VIOLATION. YOU WILL BE CHARGED THE COST INCURRED PLUS A 20% ADMINISTRATION FEE. THIS VIOLATION MAY RESULT IN LEGAL ACTION. TO APPEAL ANY VIOLATION OF THIS NOTICE, APPLY TO THE BOARD OF LICENSE AND INSPECTION REVIEW, MUNICIPAL SERVICES BUILDING, CONCOURSE LEVEL, 1401 JOHN F. KENNEDY BLVD., PHILA., PA 19102-1687 WITHIN 30 DAYS OF THIS NOTICE.

Name of Violator Hankin Management Company	Job Name Arsenal Business Center Building 143	Date Issued 3/29/11
Address of Violator P.O. Box 26767	Job Location 2275 Bridge St.	Date of Violation 3/29/11
City, State, Zip Elkins Park, PA 19027	Person Contacted & Title Mark Hankin	Project Number

☐ Building Owner ☐ Demo Contractor ☐ Abatement Contractor ☐ API ☒ Other ☐ Substantive ☒ Non Substantive

VIOLATION(S) PURSUANT TO TITLE 6, HEALTH CODE, OF THE PHILADELPHIA CODE, SPECIFICALLY CHAPTER 6-600**SECTION II. LICENSES**

- ☐ A. unlicensed asbestos contractor
☐ B.3.b. unlicensed asbestos workers

SECTION III. PERMITS & NOTIFICATIONS

- ☐ A.1. failure to obtain permit
☐ A.2.a. failure to provide required information

SECTION IV. CERTIFICATION

- ☐ C.1. failure to provide valid API certification

SECTION VI. MAJOR PROJECT STANDARDS

- ☐ A. failure to obtain project inspector
☐ A.1. failure of API to notify department
VI.B. WORK AREA PREPARATION
☐ 2. failure to post occupant notification
☐ 3. failure to post caution signs (OSHA)
☐ 4. failure to construct isolation barrier
 5. Isolation barrier requirements not met:
☐ a. framing ☐ b. plywood ☐ c. plastic
☐ 7.a. failure to pre-clean, remove movable objects
☐ 7.b. failure to pre-clean, seal fixed objects
☐ 7.c. failure to pre-clean, seal all other surfaces
☐ 8. plastic isolation (critical barriers)
☐ 11. failure to maintain emergency exits
☐ 12. failure to lock entrances (except emergency)
☐ 13. failure to seal floor drains (2 layers)
☐ 14. failure to shut down elevators
☐ 15. failure to turn off HVAC systems
☐ 16. failure to meet electrical requirements (GFI)
☐ 18. failure to overlap plastic 12" floor, walls
☐ 19.a. failure to provide 3 stage worker decon unit
☐ 19.b. failure to line unit 2 layers plastic
☐ 19.c. failure to frame, sheath decon (public access)
☐ 19.e.(7) failure to have lockable shuttered door
☐ 19.e. worker clean room regulations not met:
☐ (.1) ☐ (.2) ☐ (.3) ☐ (.4) ☐ (.5) ☐ (.6)
☐ 19.f. worker shower room regulations not met:
☐ (.1) ☐ (.2) ☐ (.3) ☐ (.4)
☐ 19.g. equipment room regulations not met:
☐ (.1) ☐ (.2) ☐ (.3) ☐ (.4) ☐ (.a) ☐ (.ii) ☐

SECTION VI. MAJOR PROJECTS (CONT.)

- ☐ 20.a. negative pressure on 24 hours
☐ 20.b. failure to maintain neg. pressure diff., 0.02"
☐ 20.e. failure to stop abatement upon neg. air loss
☐ (1) Inlets ☐ (2) decon seal ☐ (3) air monitoring
☐ 20.j. failure to maintain negative air system in accordance with EPA560/5-85-024, Appendix J
☐ i. failure to meet requirements while exhausting negative air indoors
VI.C.1. ASBESTOS PROJECT PROCEDURES
☐ b. failure to don proper personal equipment before entering
☐ c. failure to provide sufficient equipment and clothing
☐ d.(3.) failure to maintain entry and exit log
☐ d.(4.) failure of all individuals, before entering the work area, to be familiar with all posted regs, personal protection requirements
☐ d.(5.) failure to don proper equipment & clothing
VI.C.2. GENERAL REMOVAL PROCEDURES
☐ a. failure to properly wet w/amended water
☐ b. failure to lower material to floor (>15 ft.)
☐ d. failure to sponge or wipe surfaces clean
☐ e. failure to decon. equipment before removal
☐ f. failure to retrieve waste water
VI.C.3. CONTAINMENT BAG TECHNIQUE
☐ a. failure to properly use containment bag, single use elbows and pipe only
☐ b. failure to have two persons per bag
☐ c.(3) failure to remove occupants or have barrier
☐ c.(4) failure to have single layer plastic all openings
☐ c.(5) failure to have single layer plastic on floor (5')
☐ e.(6) failure to smoke test bags
☐ e.(13) failure to lift off ACM while wet
☐ e.(16) failure to collapse bag w/HEPA vacuum
☐ e.(20) failure to 6 mil bag over containment bag
☐ e.(21) failure to clean all work surfaces
☐ e.(24) failure to dispose in accordance w/VI.C.7

SECTION VI. MAJOR PROJECTS (CONT.)

- ☐ e.(25) bag used on vertical pipes
VI.C.7. WASTE DISPOSAL PROCEDURES
☐ a. failure to thoroughly wet ACM for disposal and place in 6 mil bags
☐ b. failure to place contaminated materials or clothing in 6 mil bags
☐ c. failure to seal, double bag, and transport to approved landfill
☐ d. failure to place sharp objects in fiber drum
VI.C.8. WORK AREA CLEANUP PROCEDURES
☐ a. failure to wet wipe/HEPA vacuum plastic
☐ f. failure to leave critical barriers in place until airborne asbestos levels meet re-occupancy standard set forth in VI D.5 of the ACR
VI.D. AIR MONITORING
☐ 1. failure to collect required samples by API
☐ 3. failure to use independent certified lab or to have results readily available
 failure to meet following air sampling regulations:
☐ 4.a., 2.b. number of pre-test samples
☐ 4.a., 2.c. pre-test samples/routine conditions
☐ 4.a., 2.d. project sample/locations
☐ 4.b., 2.e. project samples/24 hours posted
☐ 4.b., 2.f. response action adequate
☐ 4.c., 2.b. clearance sample after visual inspection
☐ 4.c., 2.d. clearance sampling procedure
VI.E. PROJECT COMPLETION
☐ 1.a.(5) failure to submit proof of final project cost
☐ 4. failure to submit final visual inspection report and/or lab report within 10 days
SECTION X INSPECTIONS & REPORTS
☐ failure to have asbestos investigator on job site
 PA ACT 1990 - 194/SECTION 9.(a)(2)
☐ Asbestos worker/supervisor certification
☐ PHILA. HEALTH CODE 6-604-9(a)

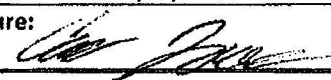
Other Violations and/ or Instructions:

- ☒ Denial of Access: On 3/29/11 AMS Inspectors were denied complete access to building 143 in violation of Philadelphia Code 6-501 (1). The Department is authorized to enter and examine any establishment, institution or private residence at all reasonable times and the owner or person in charge shall give the Department free and unhindered access for the purposes of such inspection.

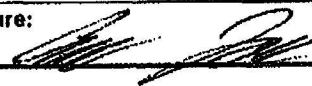
Inspector Name (Print):

Andrew Jones

Inspector Signature:



V-02868

NOTICE OF VIOLATION - MAJOR		YOU ARE IN VIOLATION OF THE SECTIONS CHECKED BELOW. TAKE PROMPT ACTION TO CORRECT THIS VIOLATION. COMPLETE THE ITEMS LISTED ON THE REVERSE SIDE AND RETURN THE NOTICE WITHIN 5 DAYS TO THE ADJOINING ADDRESS. FAILURE TO CORRECT VIOLATION MAY RESULT IN THE DEPARTMENT OF LICENSES AND INSPECTIONS CONTRACTING TO ALLEVIATE THE VIOLATION. YOU WILL BE CHARGED THE COST INCURRED PLUS A 20% ADMINISTRATION FEE. THIS VIOLATION MAY RESULT IN LEGAL ACTION. TO APPEAL ANY VIOLATION OF THIS NOTICE, APPLY TO THE BOARD OF LICENSE AND INSPECTION REVIEW, MUNICIPAL SERVICES BUILDING, CONCOURSE LEVEL, 1401 JOHN F. KENNEDY BLVD., PHILA., PA 19102-1687 WITHIN 30 DAYS OF THIS NOTICE.
AIR MANAGEMENT SERVICES AIR MANAGEMENT SERVICES ASBESTOS CONTROL UNIT SPELMAN BUILDING, 321 UNIVERSITY AVENUE, 2 ND FLOOR PHILADELPHIA, PA 19104-4543		
Name of Violator New Huntingdon Construction Company, Inc.	Job Name Arsenal Business Center Building 143	Date Issued 3/29/11
Address of Violator P.O. Box 11283	Job Location 2275 Bridge St.	Date of Violation 3/29/11
City, State, Zip Elkins Park, PA 19027	Person Contacted & Title John C. Swanson, Leasing/Sales Manager	Project Number
<input type="checkbox"/> Building Owner <input type="checkbox"/> Demo Contractor <input type="checkbox"/> Abatement Contractor <input type="checkbox"/> API <input checked="" type="checkbox"/> Other <input type="checkbox"/> Substantive <input checked="" type="checkbox"/> Non Substantive		
VIOLATION(S) PURSUANT TO TITLE 6, HEALTH CODE, OF THE PHILADELPHIA CODE, SPECIFICALLY CHAPTER 6-600		
SECTION II. LICENSES <input type="checkbox"/> A. unlicensed asbestos contractor <input type="checkbox"/> B.3.b. unlicensed asbestos workers SECTION III. PERMITS & NOTIFICATIONS <input type="checkbox"/> A.1. failure to obtain permit <input type="checkbox"/> A.2.a. failure to provide required information SECTION IV. CERTIFICATION <input type="checkbox"/> C.1. failure to provide valid API certification SECTION VI. MAJOR PROJECT STANDARDS <input type="checkbox"/> A. failure to obtain project inspector <input type="checkbox"/> A.1. failure of API to notify department VI.D. WORK AREA PREPARATION <input type="checkbox"/> 2. failure to post occupant notification <input type="checkbox"/> 3. failure to post caution signs (OSHA) <input type="checkbox"/> 4. failure to construct isolation barrier 5. isolation barrier requirements not met: <input type="checkbox"/> a. framing <input type="checkbox"/> b. plywood <input type="checkbox"/> c. plastic <input type="checkbox"/> 7.a. failure to pre-clean, remove movable objects <input type="checkbox"/> 7.b. failure to pre-clean, seal fixed objects <input type="checkbox"/> 7.c. failure to pre-clean, seal all other surfaces <input type="checkbox"/> 8. plastic isolation (critical barriers) <input type="checkbox"/> 11. failure to maintain emergency exits <input type="checkbox"/> 12. failure to lock entrances (except emergency) <input type="checkbox"/> 13. failure to seal floor drains (2 layers) <input type="checkbox"/> 14. failure to shut down elevators <input type="checkbox"/> 15. failure to turn off HVAC systems <input type="checkbox"/> 16. failure to meet electrical requirements (GFI) <input type="checkbox"/> 18. failure to overlap plastic 12" floor, walls <input type="checkbox"/> 19.a. failure to provide 3 stage worker decon unit <input type="checkbox"/> 19.b. failure to line unit 2 layers plastic <input type="checkbox"/> 19.c. failure to frame, sheath decon (public access) <input type="checkbox"/> 19.e.(7) failure to have lockable shuttered door <input type="checkbox"/> 19.e. worker clean room regulations not met: <input type="checkbox"/> (.1) <input type="checkbox"/> (.2) <input type="checkbox"/> (.3) <input type="checkbox"/> (.4) <input type="checkbox"/> (.5) <input type="checkbox"/> (.6) <input type="checkbox"/> 19.f. worker shower room regulations not met: <input type="checkbox"/> (.1) <input type="checkbox"/> (.2) <input type="checkbox"/> (.3) <input type="checkbox"/> (.4) <input type="checkbox"/> 19.g. equipment room regulations not met: <input type="checkbox"/> (.1) <input type="checkbox"/> (.2) <input type="checkbox"/> (.3) <input type="checkbox"/> (.4) <input type="checkbox"/> (.a) <input type="checkbox"/> (.ll) <input type="checkbox"/>	SECTION VI. MAJOR PROJECTS (CONT.) <input type="checkbox"/> 20.a. negative pressure on 24 hours <input type="checkbox"/> 20.b. failure to maintain neg. pressure diff., 0.02" <input type="checkbox"/> 20.e. failure to stop abatement upon neg. air loss <input type="checkbox"/> (1) inlets <input type="checkbox"/> (2) decon seal <input type="checkbox"/> (3) air monitoring <input type="checkbox"/> 20.j. failure to maintain negative air system in accordance with EPA560/5-85-024, Appendix J <input type="checkbox"/> I. failure to meet requirements while exhausting negative air indoors VI.C.1. ASBESTOS PROJECT PROCEDURES <input type="checkbox"/> b. failure to don proper personal equipment before entering <input type="checkbox"/> c. failure to provide sufficient equipment and clothing <input type="checkbox"/> d.(3.) failure to maintain entry and exit log <input type="checkbox"/> d.(4.) failure of all individuals, before entering the work area, to be familiar with all posted regs, personal protection requirements <input type="checkbox"/> d.(5.) failure to don proper equipment & clothing VI.C.2. GENERAL REMOVAL PROCEDURES <input type="checkbox"/> a. failure to properly wet w/amended water <input type="checkbox"/> b. failure to lower material to floor (>15 ft.) <input type="checkbox"/> d. failure to sponge or wipe surfaces clean <input type="checkbox"/> e. failure to decon. equipment before removal <input type="checkbox"/> f. failure to retrieve waste water VI.C.3. CONTAINMENT BAG TECHNIQUE <input type="checkbox"/> a. failure to properly use containment bag, single use elbows and pipe only <input type="checkbox"/> b. failure to have two persons per bag <input type="checkbox"/> c.(3) failure to remove occupants or have barrier <input type="checkbox"/> c.(4) failure to have single layer plastic all openings <input type="checkbox"/> c.(5) failure to have single layer plastic on floor (5') <input type="checkbox"/> e.(6) failure to smoke test bags <input type="checkbox"/> e.(13) failure to lift off ACM while wet <input type="checkbox"/> e.(16) failure to collapse bag w/HEPA vacuum <input type="checkbox"/> e.(20) failure to 6 mil bag over containment bag <input type="checkbox"/> e.(21) failure to clean all work surfaces <input type="checkbox"/> e.(24) failure to dispose in accordance w/VI.C.7	SECTION VI. MAJOR PROJECTS (CONT.) <input type="checkbox"/> e.(25) bag used on vertical pipes VI.C.7. WASTE DISPOSAL PROCEDURES <input type="checkbox"/> a. failure to thoroughly wet ACM for disposal and place in 6 mil bags <input type="checkbox"/> b. failure to place contaminated materials or clothing in 6 mil bags <input type="checkbox"/> c. failure to seal, double bag, and transport to approved landfill <input type="checkbox"/> d. failure to place sharp objects in fiber drum VI.C.8. WORK AREA CLEANUP PROCEDURES <input type="checkbox"/> a. failure to wet wipe/HEPA vacuum plastic <input type="checkbox"/> f. failure to leave critical barriers in place until airborne asbestos levels meet re-occupancy standard set forth in VI.D.5 of the ACR VI.D. AIR MONITORING <input type="checkbox"/> 1. failure to collect required samples by API <input type="checkbox"/> 3. failure to use independent certified lab or to have results readily available failure to meet following air sampling regulations: <input type="checkbox"/> 4.a., 2.b. number of pre-test samples <input type="checkbox"/> 4.a., 2.c. pre-test samples/routine conditions <input type="checkbox"/> 4.a., 2.d. project sample/locations <input type="checkbox"/> 4.b., 2.e. project samples/24 hours posted <input type="checkbox"/> 4.b., 2.f. response action adequate <input type="checkbox"/> 4.c., 2.b. clearance sample after visual inspection <input type="checkbox"/> 4.c., 2.d. clearance sampling procedure VI.E. PROJECT COMPLETION <input type="checkbox"/> 1.a.(5) failure to submit proof of final project cost <input type="checkbox"/> 4. failure to submit final visual inspection report and/or lab report within 10 days SECTION X INSPECTIONS & REPORTS <input type="checkbox"/> failure to have asbestos investigator on job site PA ACT 1990 - 194/SECTION 9.(a)(2) <input type="checkbox"/> Asbestos worker/supervisor certification <input type="checkbox"/> PHILA. HEALTH CODE 6-604-9(a)
Other Violations and/ or Instructions: <input checked="" type="checkbox"/> Denial of Access: On 3/29/11 AMS Inspectors were denied complete access to building 143 in violation of Philadelphia Code 6-501 (1). The Department is authorized to enter and examine any establishment, institution or private residence at all reasonable times and the owner or person in charge shall give the Department free and unhindered access for the purposes of such inspection.		
Inspector Name (Print): Andrew Jones		Inspector Signature: 

V-02865

NOTICE OF VIOLATION - MAJOR
PHILADELPHIA DEPARTMENT OF PUBLIC HEALTH
AIR MANAGEMENT SERVICES
ASBESTOS CONTROL UNIT
 SPELMAN BUILDING, 321 UNIVERSITY AVENUE, 2ND FLOOR
 PHILADELPHIA, PA 19104-4543

YOU ARE IN VIOLATION OF THE SECTIONS CHECKED BELOW. TAKE PROMPT ACTION TO CORRECT THIS VIOLATION. COMPLETE THE ITEMS LISTED ON THE REVERSE SIDE AND RETURN THE NOTICE WITHIN 5 DAYS TO THE ADJOINING ADDRESS. FAILURE TO CORRECT VIOLATION MAY RESULT IN THE DEPARTMENT OF LICENSES AND INSPECTIONS CONTRACTING TO ALLEVIATE THE VIOLATION. YOU WILL BE CHARGED THE COST INCURRED PLUS A 20% ADMINISTRATION FEE. THIS VIOLATION MAY RESULT IN LEGAL ACTION. TO APPEAL ANY VIOLATION OF THIS NOTICE, APPLY TO THE BOARD OF LICENSES AND INSPECTION REVIEW, MUNICIPAL SERVICES BUILDING, CONCOURSE LEVEL, 1401 JOHN F. KENNEDY BLVD., PHILA., PA 19102-1687 WITHIN 30 DAYS OF THIS NOTICE.

Name of Violator Hankin Management Company	Job Name Arsenal Business Center Building 51/52	Date Issued 3/29/11
Address of Violator P.O. Box 26767	Job Location 2275 Bridge St.	Date of Violation 3/29/11
City, State, Zip Elkins Park, PA 19027	Person Contacted & Title Mark Hankin	Project Number
<input type="checkbox"/> Building Owner <input type="checkbox"/> Demo Contractor <input type="checkbox"/> Abatement Contractor <input type="checkbox"/> API <input checked="" type="checkbox"/> Other		<input type="checkbox"/> Substantive <input checked="" type="checkbox"/> Non Substantive

VIOLATION(S) PURSUANT TO TITLE 6, HEALTH CODE, OF THE PHILADELPHIA CODE, SPECIFICALLY CHAPTER 6-600

<p>SECTION II. LICENSES</p> <p><input type="checkbox"/> A. unlicensed asbestos contractor</p> <p><input type="checkbox"/> B.3.b. unlicensed asbestos workers</p> <p>SECTION III. PERMITS & NOTIFICATIONS</p> <p><input type="checkbox"/> A.1. failure to obtain permit</p> <p><input type="checkbox"/> A.2.a. failure to provide required information</p> <p>SECTION IV. CERTIFICATION</p> <p><input type="checkbox"/> C.1. failure to provide valid API certification</p> <p>SECTION VI. MAJOR PROJECT STANDARDS</p> <p><input type="checkbox"/> A. failure to obtain project inspector</p> <p><input type="checkbox"/> A.1. failure of API to notify department</p> <p>VI.B. WORK AREA PREPARATION</p> <p><input type="checkbox"/> 2. failure to post occupant notification</p> <p><input type="checkbox"/> 3. failure to post caution signs (OSHA)</p> <p><input type="checkbox"/> 4. failure to construct isolation barrier</p> <p><input type="checkbox"/> 5. isolation barrier requirements not met:</p> <p><input type="checkbox"/> a. framing <input type="checkbox"/> b. plywood <input type="checkbox"/> c. plastic</p> <p><input type="checkbox"/> 7.a. failure to pre-clean, remove movable objects</p> <p><input type="checkbox"/> 7.b. failure to pre-clean, seal fixed objects</p> <p><input type="checkbox"/> 7.c. failure to pre-clean, seal all other surfaces</p> <p><input type="checkbox"/> 8. plastic isolation (critical barriers)</p> <p><input type="checkbox"/> 11. failure to maintain emergency exits</p> <p><input type="checkbox"/> 12. failure to lock entrances (except emergency)</p> <p><input type="checkbox"/> 13. failure to seal floor drains (2 layers)</p> <p><input type="checkbox"/> 14. failure to shut down elevators</p> <p><input type="checkbox"/> 15. failure to turn off HVAC systems</p> <p><input type="checkbox"/> 16. failure to meet electrical requirements (GFI)</p> <p><input type="checkbox"/> 18. failure to overlap plastic 12" floor, walls</p> <p><input type="checkbox"/> 19.a. failure to provide 3 stage worker decon unit</p> <p><input type="checkbox"/> 19.b. failure to line unit 2 layers plastic</p> <p><input type="checkbox"/> 19.c. failure to frame, sheath decon (public access)</p> <p><input type="checkbox"/> 19.e.(7) failure to have lockable shuttered door</p> <p><input type="checkbox"/> 19.e. worker clean room regulations not met:</p> <p><input type="checkbox"/> (.1) <input type="checkbox"/> (.2) <input type="checkbox"/> (.3) <input type="checkbox"/> (.4) <input type="checkbox"/> (.5) <input type="checkbox"/> (.6)</p> <p><input type="checkbox"/> 19.f. worker shower room regulations not met:</p> <p><input type="checkbox"/> (.1) <input type="checkbox"/> (.2) <input type="checkbox"/> (.3) <input type="checkbox"/> (.4)</p> <p><input type="checkbox"/> 19.g. equipment room regulations not met:</p> <p><input type="checkbox"/> (.1) <input type="checkbox"/> (.2) <input type="checkbox"/> (.3) <input type="checkbox"/> (.4) <input type="checkbox"/> (.a) <input type="checkbox"/> (.ii)</p>	<p>SECTION VI. 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ASBESTOS PROJECT PROCEDURES</p> <p><input type="checkbox"/> b. failure to don proper personal equipment before entering</p> <p><input type="checkbox"/> c. failure to provide sufficient equipment and clothing</p> <p><input type="checkbox"/> d.(3.) failure to maintain entry and exit log</p> <p><input type="checkbox"/> d.(4.) failure of all individuals, before entering the work area, to be familiar with all posted regs, personal protection requirements</p> <p><input type="checkbox"/> d.(5.) failure to don proper equipment & clothing</p> <p>VI.C.2. GENERAL REMOVAL PROCEDURES</p> <p><input type="checkbox"/> a. failure to properly wet w/amended water</p> <p><input type="checkbox"/> b. failure to lower material to floor (>15 ft.)</p> <p><input type="checkbox"/> d. failure to sponge or wipe surfaces clean</p> <p><input type="checkbox"/> e. failure to decon. equipment before removal</p> <p><input type="checkbox"/> f. failure to retrieve waste water</p> <p>VI.C.3. CONTAINMENT BAG TECHNIQUE</p> <p><input type="checkbox"/> a. failure to properly use containment bag, single use elbows and pipe only</p> <p><input type="checkbox"/> b. failure to have two persons per bag</p> <p><input type="checkbox"/> c.(3) failure to remove occupants or have barrier</p> <p><input type="checkbox"/> c.(4) failure to have single layer plastic all openings</p> <p><input type="checkbox"/> c.(5) failure to have single layer plastic on floor (5')</p> <p><input type="checkbox"/> e.(6) failure to smoke test bags</p> <p><input type="checkbox"/> e.(13) failure to lift off ACM while wet</p> <p><input type="checkbox"/> e.(16) failure to collapse bag w/HEPA vacuum</p> <p><input type="checkbox"/> e.(20) failure to 6 mil bag over containment bag</p> <p><input type="checkbox"/> e.(21) failure to clean all work surfaces</p> <p><input type="checkbox"/> e.(24) failure to dispose in accordance w/VI.C.7</p>	<p>SECTION VI. MAJOR PROJECTS (CONT.)</p> <p><input type="checkbox"/> e.(25) bag used on vertical pipes</p> <p>VI.C.7. WASTE DISPOSAL PROCEDURES</p> <p><input type="checkbox"/> a. failure to thoroughly wet ACM for disposal and place in 6 mil bags</p> <p><input type="checkbox"/> b. failure to place contaminated materials or clothing in 6 mil bags</p> <p><input type="checkbox"/> c. failure to seal, double bag, and transport to approved landfill</p> <p><input type="checkbox"/> d. failure to place sharp objects in fiber drum</p> <p>VI.C.8. WORK AREA CLEANUP PROCEDURES</p> <p><input type="checkbox"/> a. failure to wet wipe/HEPA vacuum plastic</p> <p><input type="checkbox"/> f. failure to leave critical barriers in place until airborne asbestos levels meet re-occupancy standard set forth in VI D.5 of the ACR</p> <p>VI.D. 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PROJECT COMPLETION</p> <p><input type="checkbox"/> 1.a.(5) failure to submit proof of final project cost</p> <p><input type="checkbox"/> 4. failure to submit final visual inspection report and/or lab report within 10 days</p> <p>SECTION X INSPECTIONS & REPORTS</p> <p><input type="checkbox"/> failure to have asbestos investigator on job site</p> <p>PA ACT 1990 - 194/SECTION 9.(a)(2)</p> <p><input type="checkbox"/> Asbestos worker/supervisor certification</p> <p><input type="checkbox"/> PHILA. HEALTH CODE 6-604-9(a)</p>
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Other Violations and/ or Instructions:

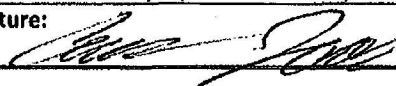


Denial of Access: On 3/29/11 AMS Inspectors were denied complete access to building 51/52 in violation of Philadelphia Code § 6-501 (1). The Department is authorized to enter and examine any establishment, institution or private residence at all reasonable times and the owner or person in charge shall give the Department free and unhindered access for the purposes of such inspection.

Inspector Name (Print):

Andrew Jones

Inspector Signature:



V-02869

NOTICE OF VIOLATION - MAJOR

PHILADELPHIA DEPARTMENT OF PUBLIC HEALTH

AIR MANAGEMENT SERVICES

ASBESTOS CONTROL UNIT

SPELMAN BUILDING, 321 UNIVERSITY AVENUE, 2ND FLOOR
PHILADELPHIA, PA 19104-4543

YOU ARE IN VIOLATION OF THE SECTIONS CHECKED BELOW. TAKE PROMPT ACTION TO CORRECT THIS VIOLATION, COMPLETE THE ITEMS LISTED ON THE REVERSE SIDE AND RETURN THE NOTICE WITHIN 5 DAYS TO THE ADJOINING ADDRESS. FAILURE TO CORRECT VIOLATION MAY RESULT IN THE DEPARTMENT OF LICENSES AND INSPECTIONS CONTRACTING TO ALLEVIATE THE VIOLATION. YOU WILL BE CHARGED THE COST INCURRED PLUS A 20% ADMINISTRATION FEE. THIS VIOLATION MAY RESULT IN LEGAL ACTION. TO APPEAL ANY VIOLATION OF THIS NOTICE, APPLY TO THE BOARD OF LICENSES AND INSPECTION REVIEW, MUNICIPAL SERVICES BUILDING, CONCOURSE LEVEL, 1401 JOHN F. KENNEDY BLVD., PHILA., PA 19102-1687 WITHIN 30 DAYS OF THIS NOTICE.

Name of Violator New Huntingdon Construction Company, Inc.	Job Name Arsenal Business Center Building 51/52	Date Issued 3/29/11
Address of Violator P.O. Box 11283	Job Location 2275 Bridge St.	Date of Violation 3/29/11
City, State, Zip Elkins Park, PA 19027	Person Contacted & Title John C. Swanson, Leasing/Sales Manager	Project Number

☐ Building Owner ☐ Demo Contractor ☐ Abatement Contractor ☐ API ☒ Other ☐ Substantive ☒ Non Substantive

VIOLATION(S) PURSUANT TO TITLE 6, HEALTH CODE, OF THE PHILADELPHIA CODE, SPECIFICALLY CHAPTER 6-600

SECTION II. LICENSES <input type="checkbox"/> A. unlicensed asbestos contractor <input type="checkbox"/> B.3.b. unlicensed asbestos workers SECTION III. PERMITS & NOTIFICATIONS <input type="checkbox"/> A.1. failure to obtain permit <input type="checkbox"/> A.2.a. failure to provide required information SECTION IV. CERTIFICATION <input type="checkbox"/> C.1. failure to provide valid API certification SECTION VI. MAJOR PROJECT STANDARDS <input type="checkbox"/> A. failure to obtain project inspector <input type="checkbox"/> A.1. failure of API to notify department VI.B. WORK AREA PREPARATION <input type="checkbox"/> 2. failure to post occupant notification <input type="checkbox"/> 3. failure to post caution signs (OSHA) <input type="checkbox"/> 4. failure to construct isolation barrier 5. Isolation barrier requirements not met: <input type="checkbox"/> a. framing <input type="checkbox"/> b. plywood <input type="checkbox"/> c. plastic <input type="checkbox"/> 7.a. failure to pre-clean, remove movable objects <input type="checkbox"/> 7.b. failure to pre-clean, seal fixed objects <input type="checkbox"/> 7.c. failure to pre-clean, seal all other surfaces <input type="checkbox"/> 8. plastic isolation (critical barriers) <input type="checkbox"/> 11. failure to maintain emergency exits <input type="checkbox"/> 12. failure to lock entrances (except emergency) <input type="checkbox"/> 13. failure to seal floor drains (2 layers) <input type="checkbox"/> 14. failure to shut down elevators <input type="checkbox"/> 15. failure to turn off HVAC systems <input type="checkbox"/> 16. failure to meet electrical requirements (GFI) <input type="checkbox"/> 18. failure to overlap plastic 12" floor, walls <input type="checkbox"/> 19.a. failure to provide 3 stage worker decon unit <input type="checkbox"/> 19.b. failure to line unit 2 layers plastic <input type="checkbox"/> 19.c. failure to frame, sheath decon (public access) <input type="checkbox"/> 19.e.(7) failure to have lockable shuttered door <input type="checkbox"/> 19.e. worker clean room regulations not met: <input type="checkbox"/> (1) <input type="checkbox"/> (2) <input type="checkbox"/> (3) <input type="checkbox"/> (4) <input type="checkbox"/> (5) <input type="checkbox"/> (6) <input type="checkbox"/> 19.f. worker shower room regulations not met: <input type="checkbox"/> (1) <input type="checkbox"/> (2) <input type="checkbox"/> (3) <input type="checkbox"/> (4) <input type="checkbox"/> 19.g. equipment room regulations not met: <input type="checkbox"/> (1) <input type="checkbox"/> (2) <input type="checkbox"/> (3) <input type="checkbox"/> (4) <input type="checkbox"/> (a) <input type="checkbox"/> (j) <input type="checkbox"/>	SECTION VI. 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Inspector Name (Print):

Andrew Jones

Inspector Signature:



EXHIBIT B

BRAVERMAN KASKEY

A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW

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(215) 575-3918
mwalker@braverlaw.com

April 19, 2011

Via E-mail and First Class Mail

Dennis Yuen, Esq.
Assistant City Solicitor
City of Philadelphia Law Dept.
One Parkway Bldg. 16th Floor
1515 Arch Street
Philadelphia, PA 19102

Dear Mr. Yuen:

This Firm is counsel to Arsenal Associates, L.P. ("Arsenal"), Hankin Management Company ("HMC"), Arsenal Condominium Association and New Huntingdon Construction Company (collectively referred to herein as the "Arsenal Parties"). I am writing in response to your letter dated April 14, 2011.

We take strong exception to these new tactics employed by the City of Philadelphia Air Management Services ("AMS") to suspend pending demolition permits under the pretext that my clients somehow have denied AMS inspectors access to the Arsenal Business Center. To be clear, the Arsenal Parties categorically deny that they have denied access to AMS inspectors and strict proof is demanded thereof. To the contrary, my clients consistently have cooperated with AMS during inspections (more than 100 inspections so far) and have gone out of their way, frequently interrupting their normal business operations, to make themselves available to accompany AMS inspectors at the Arsenal. They have done so notwithstanding AMS' frequent ambush inspections prior and subsequent to our agreement that AMS provide, at a minimum, reasonable notice of its proposed inspections.

AMS claims that access to buildings 51, 52, 143 and 202 have been denied. Yet, AMS' naked accusations do not make this statement true. By way of example, AMS was never denied access to Building 202. When AMS inspectors sought to inspect the basement of Building 202, Mr. Swanson informed them that the basement was not on the agenda and that AMS should follow the agreed upon protocol of notifying counsel in advance of the inspection. This protocol – as you may recall – was agreed upon between my clients and AMS until AMS suddenly decided that my clients did not deserve reasonable notice through counsel. Nevertheless, Mr. Swanson repeatedly made clear to the AMS inspector at the time of the inspection that he was not denying access to the building.

Even assuming *arguendo* that AMS was denied access to these four buildings, does this give AMS an unfettered right to withhold demolition permits on buildings for which access was not denied? As stated in Mr. Braverman's April 13, 2011 email to you, Building 44 is a prime example of AMS' pretextual reasons for withholding demolition permits at the Arsenal. As you are aware, a demolition permit application is pending for Building 44. Building 44 has been remediated and a final remediation report has been submitted to the City of Philadelphia Department of Licenses & Inspections ("L&I"). AMS' inspector was permitted full and unhindered access to Building 44 yet declined to inspect the building. Indeed, the AMS inspector in question even refused to accept another copy of the final report for Building 44 when Arsenal representatives offered it to him during his visit. Yet, AMS has continued to hold up the permit application for Building 44 because "access was denied in other buildings." See email from D. Braverman to D. Yuen dated April 13, 2011. This arbitrary and capricious response from AMS is clearly contrary to the intent of the Health Code and NESHAP. Where L&I has an Asbestos Inspection Report clearly showing no asbestos in Building 44, on what grounds does AMS withhold the processing of a demolition permit to which my clients are properly entitled? Your failure to even mention Building 44 in your April 14, 2011 letter response speaks volumes.

Further, we find outrageous your assertion that "no one from AMS has advised your clients or their contractors that they had to stop all demolition or other activity at the Arsenal site before the USEPA Order became effective." Since the issuance of the March 30, 2011 Administrative Compliance Order ("ACO"), Mr. Jeff Forrester and other AMS representatives have repeatedly wielded the ACO before our consultants and contractors as a pretext for refusing to process permit applications for the Project. We have been advised that Mr. Forrester sent notices to some of our consultants and contractors advising them that all work at the Arsenal must cease. Most recently, on the morning of Friday, April 15, 2011, in connection with Building 48C, Mr. Forrester informed Casey Duffy of Delaware Valley Remediation ("DVR"), one of my clients' asbestos removal contractors, that AMS will not be processing any of the permit applications or NESHAP Notifications at the Arsenal. Therefore, Mr. Duffy was barred from submitting the notification that he intended to submit, on Arsenal's behalf, for an ACM issue he encountered during the demolition of Building 48C.

While AMS is vested with certain authority to access and inspect private property, at a minimum, my clients are still entitled to due process. Clearly, no federal, state or local laws permit AMS to engage in pretextual conduct or conduct that amounts to an abuse of power, bad faith or arbitrary and capricious action. Once again, we request that AMS approve (and do not restrict L&I from issuing) the demolition permit for Building 44.

BK

Dennis Yuen, Esq.
April 19, 2011

3

Of course, my clients remain amenable to resolving these issues with AMS and will continue to cooperate with AMS with the goal of completing this beleaguered yet important Project. In short, please understand that Arsenal Associates is (and has been) ready, willing and able to provide reasonable and unhindered access to AMS.

Sincerely,



Michelle S. Walker

cc: Patrick O'Neill, Esq., Division Deputy City Solicitor, Environmental Law
Donzetta Thomas, Senior Assistant Regional Counsel, EPA
Christine Convery,
David L. Braverman, Esquire